

Members

Sen. Charles Meeks, Chairperson
Sen. Anita Bowser
Rep. Scott Mellinger
Rep. Ralph Foley
Mary Beth Bonaventura
Chris Beeson
Lance Hamner
Madonna Roach
Joe Hooker
Glenn Boyster
Chris Cunningham
Judge Thomas Ryan
Sharon Duke
Iris Kiesling
David Matsey
Craig Hanks
Dave Powell
Steve Cradick
Jim Brewer
Robert Chamness



PROBATION SERVICES STUDY COMMITTEE

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Authority: P.L. 131-1998

MEETING MINUTES¹

Meeting Date: October 20, 1999
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St., Room 404
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Sen. Charles Meeks, Chairperson; Rep. Scott Mellinger; Rep. Ralph Foley; Chris Beeson; Lance Hamner; Madonna Roach; Joe Hooker; Chris Cunningham; Judge Thomas Ryan; Sharon Duke; Iris Kiesling; David Matsey; Craig Hanks; Dave Powell; Jim Brewer; Robert Chamness.

Members Absent: Sen. Anita Bowser; Mary Beth Bonaventura; Glenn Boyster; Steve Cradick.

I. Call to Order

Chair Meeks called the Committee to order at approximately 10:10 a.m.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

II. Discussion of Preliminary Drafts (PDs)

The Committee discussed the following three preliminary drafts relating to the community transition program (CTP): (1) Option #1, PD 3455, transfers the administration of the CTP. (2) Option #2, PD 3522, places control over the CTP with the courts, by expanding the sentencing modification statutes. (3) Option #3, PD 3523, makes numerous modifications to the current CTP law while retaining its current structure. In addition, the Committee discussed several amendments to the three drafts. Some of these ideas are addressed in a handout entitled "Additional Suggestions for Amendments to Probation Services PDs."

PD 3455. Transfers administration of the CTP to the Department of Correction. Provides for victim notifications. Makes other changes.

Committee Discussion of PD 3455.

Senator Meeks stated that he wants to be clear about which agency is responsible for care of offenders. Senator Meeks stated that he does not want the Department of Correction (DOC) to give up the responsibility for the costs of services provided to an offender who is placed in the CTP, including medical costs. Senator Meeks further stated that offenders placed in the CTP should not go back to the county jails. Senator Meeks stated that DOC needs to maintain control.

Dave Powell questioned whether PD 3455 gives adequate guidance to local law enforcement agencies for implementation of the program.

Judge Thomas Ryan suggested that language should be added to PD 3455 indicating that if an offender violates a condition of the CTP the following should occur: (1) The DOC should be given notice and should follow procedures similar to those for an offender who violates parole. (2) The DOC should act upon violations within a designated time frame. (3) The DOC should transport the offender who violates a condition of the CTP. (4) The DOC should designate who would conduct the hearing and the place of the hearing with respect to any violation.

Judge Ryan further suggested that on page 2, line 15, of PD 3455, the range of services available under the CTP should include additional rehabilitative programs such as alcohol abuse deterrent programs.

Senator Meeks stated that a provision should be added to PD 3455 that says if an offender is released back to the local jurisdiction, the sentencing court should be notified. Judge Ryan noted that even if the court is notified, judicial due process is not triggered under PD 3455 because the entire administration of the CTP is under the DOC. Representative Foley concurred that simply notifying the court about any offenders who are placed in the CTP, without giving the court the authority to approve or disapprove the placement, would not trigger judicial due process. Craig Hanks disagreed and stated that the court should get involved in which offenders are coming back to the community.

Judge Ryan stated that he wants the administration of due process relating to the CTP to be handled exclusively through the executive branch by way of DOC's

regulatory authority. Judge Ryan further stated that DOC could offer incentives such as grants to local community correction programs.

Vote on PD 3455: No Committee members voted in favor of PD 3455.

PD 3522 Requires the Department of Correction to send a court that sentenced a defendant a written request to review whether the defendant would be appropriate for a sentence modification. Specifies when the department's request must be sent. Provides that a defendant: (1) committed to the department for murder; or (2) assigned to credit time Class II or Class III; is ineligible for the sentence modification. Requires the department to make a payment of {\$__} to a county for each sentence modification that a court in a county orders upon the department's request for review of a defendant's sentence. Requires the payment to be deposited into certain funds. Establishes certain transfer provisions. Specifies that the department initiated modifications do not apply to a person who is assigned to Class II or Class III credit time. Requires that the payment to a county for each sentence modification must be deposited in the community corrections fund or the supplemental adult probation services fund. Establishes provisions for the transfer of a person to a community corrections program in another county. Makes stylistic changes. Makes certain other changes.

Committee discussion of PD 3522.

Judge Matsey stated that PD 3522 simplifies the current CTP by placing the program exclusively under the control of the courts. Judge Matsey further stated that PD 3522 gives the courts a financial incentive to accept an offender into the CTP. The financial incentive is to be used toward community corrections and probation services.

Vote on PD 3522: Three Committee members voted in support of PD 3522.

PD 3523. Makes modifications in the community transition program, including the following: (1) Raises the per diem that the Department of Correction pays to communities for services provided to an offender assigned to a CTP from \$7 to \$35 under certain circumstances. (2) Provides that the Department of Correction or, under certain circumstances the offender, is responsible for any medical expenses of a person who is placed in a CTP. (3) Provides that the CTP is a minimum security assignment within the Department of Correction. (4) Expands the reasons for which a court may prohibit an offender's placement in a CTP. (5) Provides that only offenders who are classified in credit time Class I are eligible for the CTP. (6) Requires the Department of Correction to give notice of an offender's eligibility for a CTP to the court that entered the longest sentence of imprisonment against the offender and describes certain information that must be included in the notice. (7) Allows a person who is placed in a CTP to be deprived of credit time or placed in a lower credit time classification. (8) Addresses the transfer of an offender from one CTP to another and makes the Department of Correction responsible for reasonable costs of the transfer. (9) Makes certain other changes.

Committee Discussion of PD 3523.

Chris Beeson questioned whether the county council has any control over the per diem paid by the DOC for offenders who are placed in the CTP under PD 3523. Judge Ryan responded that the county council would have no control over how the money is spent. Senator Meeks further commented that the money would remain in the program and does not revert to the general fund.

Chris Beeson stated that all of the money that communities receive for community corrections needs to be reappropriated, but it does not need to be rebudgeted.

Vote on Pd 3523: Five Committee members voted in support of PD 3523.

Discussion of Repeal of Current CTP statutes

Dave Powell suggested that the CTP laws enacted last session should be repealed. Dave Powell stated that he is supportive of building another prison in Indiana. Senator Meeks stated that building another prison was not an option. Nonetheless, Senator Meeks asked if any Committee members would support repealing the current CTP statutes. Four Committee members voted in support of repealing these statutes.

PD 3517. Allows a court having probation jurisdiction to apply to the Judicial Conference of Indiana for state financial assistance to be used for probation officer salaries. Applies only to courts administering probation that meet or exceed all of the minimum standards adopted by the Judicial Conference of Indiana. Requires that the financial assistance must be limited to an amount that is 50% of the minimum cost of salaries for not more than the number of probation officers required by the minimum standards adopted by the conference. Eliminates the requirement that the Budget Committee approve the salaries. Allows counties to appropriate funds for probation positions and services. Expands the information required on an application requesting financial aid to include any information required by the conference. Makes stylistic changes.

Committee Discussion on PD 3517

Senator Meeks noted that the General Assembly will not be able to do anything about probation officer salaries until 2001. Senator Meeks questioned whether there were any restrictions on the number of probation officers that a county may have. Jeff Bercovitz, Indiana Judicial Center, responded that the Indiana Judicial Center sets the minimum number of probation officers that are needed.

The Committee approved the following three amendments to PD 3517: (1) Delay the effective date until January 1, 2001. (2) Allow counties to borrow money to pay the probation officers salaries in a manner that is equivalent to a tax anticipation warrant. (3) Apply the state financial assistance not only to probation officer salaries but also to probation officer benefits.

Vote on PD 3517: Adopted as Amended by Consent.

PD 3469. Expands the law to provide that survivors of a probation officer who dies in the line of duty are entitled to receive certain death benefits.

Committee discussion of PD 3469

Fiscal analyst Mark Goodpaster explained that certain fees paid by defendants who executed bail bonds were used to fund the law enforcement officer death benefits. The Committee discussed the fact that collection of these fees for the fund expired on December 31, 1998. Mr. Goodpaster stated that if the fund is not reestablished, the fund will run out of money in approximately 14 years, and if probation officers receive the benefits, the fund would last approximately 12 years. Mr. Goodpaster further stated that on June 30, 1999, the fund had a balance of \$4,052,429. The Committee decided that there was no need to reestablish the fund at this time.

Vote on PD 3469: Adopted by Consent.

PD 3515. Requires a probation officer to meet the following conditions before the probation officer is allowed to carry a handgun while on duty: (1) The court with jurisdiction over the probation officer must enter an order authorizing the probation officer to carry the handgun. (2) The probation officer must obtain a license to carry the handgun. (3) The probation officer must complete a certified handgun safety course. Requires the law enforcement training board to adopt rules for certifying handgun safety courses that meet certain standards for training probation officers in handgun safety. Specifies that the certified handgun safety courses for probation officers may include courses offered in the private sector. Specifies that the tort claims act applies to a civil action arising out of an act within a probation officer's employment or duties. Makes certain stylistic changes.

Committee Discussion of PD 3515

Lance Hamner questioned why a probation officer should have to obtain a license to carry a handgun if the court authorizes it. Mr. Hamner stated that to require the license under these circumstances seemed like unnecessary bureaucracy and paperwork. Several committee members stated that they would be more comfortable if the probation officer was required to obtain the permit in addition to obtaining court authorization.

Vote on PD 3515: Adopted by Consent

III. Adjournment

Senator Meeks expressed concern about members who have not attended meetings. Senator Meeks spoke of the importance of the Committee and the effect some of the Committee's decisions may have on individuals' lives. Senator Meeks believes that if a member does not attend the Committee meetings the member should step down or be removed from the Committee.

Senator Meeks adjourned the meeting at approximately 12:30 p.m.